


INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Rec'd PCT/PTO 21 APR 2005

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PCT

Applicant's or agent's file reference 409* 7/pm		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/ES 0200499	International filing date (day/month/year) 22.10.2002	Priority date (day/month/year) 22.10.2002	
International Patent Classification (IPC) or both national classification and IPC A63H18/16			
Applicant WINKLER INTERNATIONAL, SA et al.			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 7 sheets.</p>			
<p>3. This report contains Indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>			
Date of submission of the demand 24.05.2004		Date of completion of this report 20.01.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Turmo Peruga, R Telephone No. +49 89 2399-7471	



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/ES 02/00499**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-15 as originally filed

Claims, Numbers

3-25 received on 22.07.2004 with letter of 19.07.2004
1, 2 filed with telefax on 10.01.2005

Drawings, Sheets

1/9-9/9 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-25
	No: Claims	
Inventive step (IS)	Yes: Claims	1-25
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-25
	No: Claims	

2. Citations and explanations

see separate sheet

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Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Reference is made to the following documents:

D1: FR-A-2 042 168A

D2: US-A-3 290 498A

Unless indicated otherwise reference is made to the relevant passages emphasized in the search report.

2. The subject-matter of **claim 1** appears to be novel (Art. 33(2) PCT) and inventive (Art. 33(3) PCT).

The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and shows (the references in parentheses applying to this document):

"A deviation system for guide means used in a set of toy vehicles, being said set of the type that consists of a trajectory determined by guide means (1) and at least a vehicle (2) provided with and adapted guide follower (10) to said guide means (1) to follow said trajectory that comprises:

- at least one branching fork in said guide means (1) from which start first and second branches (1A, 1B);
- a mounted switch point (6) in said branching fork so that it can move between a first position, in which said guide follower (10) of the vehicle (2) is forced to follow by said first branch (1A), and a second position, in which the guide follower (10) is forced to follow by the second branch (1B)".

The subject-matter of claim 1 therefore differs from this known deviation system in that:

"an arm together with said switch point and provided with a contact end located upstream of said switch point, being said contact end capable of being pushed when the vehicle passes by a retractable movable member associated to the vehicle before the guide follower reaches the switch point to change the switch point from said first position to said second position, or vice versa, during an enough period of time in order that the guide follower is forced to continue by

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the final selected position, being incorporated a control system to drive remotely said movable member of the vehicle".

By means of the aforementioned inventive features, the switch point is controlled by the vehicle in an alternative manner.

D1 and D2 show neither a vehicle with a retractable member, nor an arm together with the switch point and provided with a contact end.

3. **Claims 2 to 25** refer to preferred embodiments of the subject-matter of claim 1. Therefore, they also fulfil the requirements of Art. 33(2) and Art. 33(3) PCT.
4. The industrial applicability of **claims 1 to 25** is self-evident (Art. 33(4) PCT).